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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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GREENERG AND LIEBERMAN  
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EXAMINER

BARNEY, SETH E

ART UNIT PAPER NUMBER

3752

DATE MAILED: 05/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/734,003

Applicant(s)

BERTRAND, STEVEN

Examiner

Seth Barney

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 March 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:  

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claims 1 and 3-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claim 1 recites, "a cylindrical porting region that then receives the water, permitting free and unobstructed flow of the water therein, constricting the end of said second region". As seen in Figure 1 of the instant application, the porting region does not further constrict the second region, but rather maintains the final cross sectional area of second region.
4. Claim 14 recites the porting region constricting the end of the first region. As seen in Figure 1 of the instant application the porting region is not connected to the first region, but rather the second region.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 3-9, and 12-14 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,623,095 to Pronk.

Regarding claim 1, Pronk discloses a mixing device receiving water from a shower pipe comprising:

- a first cylindrical region (bore inside threading 28) configured to receive water from the shower pipe (14)

- a shelf, at one end of the first cylindrical region, narrowing the diameter of the first cylindrical region, said shelf configured to receive water from said first cylindrical region, wherein said shelf has a planar surface configured to receive water from said first cylindrical region. See Figure 2.

- an aperture, on said planar surface, at the center of the surface. See Figure 2.

- the aperture configured to receive water from the first cylindrical region.

- a second region (32a) that then receives the water, with a gradually narrowing diameter permitting free and unobstructed flow of the water therein, said second region configured to receive water from said shelf. See Figure 2.

- a cylindrical porting region (32b) that then receives the water, permitting free and unobstructed flow of the water therein, constricting the end of said second region (in the same manner as the instant application), said cylindrical porting region configured to receive water from the second region.

- a third region (point halfway of 32b and ending at expansion before 32c) that then receives the water, in communication with the porting region, the third region configured to receive water from the cylindrical porting region.

-an inlet (42) in communication with the third region, the inlet positioned after the third region receives water from the porting region.

-a tube (36) attached to the inlet

-a solution apparatus (24) in communication with the tube.

-a point of dispersal of the water (12), in communication with the third region, the point of dispersal configured to receive water from the third region. See Figure 1 and 2.

Regarding claim 3, the second region is conical in shape. See Figure 2.

Regarding claim 4, said inlet can intake solution. See figure 3.

Regarding claim 5, because of the shape of the porting region being smaller than the previous region, the velocity of water would increase.

Regarding claim 6, the third region uses venturi force to combine solution from the solution apparatus with water exiting from the porting region. See column 5 lines 50 to 60.

Regarding claim 7, the solution apparatus has at least one solution reservoir (48).

Regarding claim 8, the one solution reservoir holds a solution. See column 6 lines 35 to 58.

Regarding claim 9, the solution reservoir has an aperture (44) for release of the solution.

Regarding claims 12 and 13, the solution is soap or some other liquid. See the abstract.

Regarding claim 14, Plank discloses a mixing device for receiving water, comprising:

- a first region that receives the water (bore inside threading 28).
- a shelf, at one end of the first cylindrical region, narrowing the diameter of the first cylindrical region, said shelf configured to receive water from said first cylindrical region, wherein said shelf has a planar surface configured to receive water from said first cylindrical region. See Figure 2.
- an aperture, on said planar surface, at the center of the surface. See Figure 2.
- the aperture configured to receive water from the first cylindrical region.
- a second region (32a) that then receives the water, with a gradually narrowing diameter permitting free and unobstructed flow of the water therein, in communication with a porting region. See Figure 2.
- a porting region (32b) that then receives the water, constricting the end of said second region (in the same manner as the instant application).
- an inlet (42) in communication with the third region, the inlet positioned after the third region receives water from the porting region.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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8. Claims 10 and 11 rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,623,095 to Pronk in view of U.S. Patent No. 5,333,789 to Garneys.

Pronk discloses all of the limitations of the claims except for a supply hose in communication with the inlet. Garneys discloses a soap dispenser connected to a showerhead by means of a hose. It would have been obvious to one having ordinary skill in the art at the time the invention was made to connect the soap dispenser of Pronk with a hose as taught by Garneys in order to locate the soap dispenser at a desired position rather than requiring to be attached directly to the shower head. This modification would also allow for easier refiling of the soap reservoir.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to show the art with respect to soap dispensers for showerheads. Duffield, Heald, Vicari, Gundlach, Hudson, Bishop, Hardy, Headen, and Bly.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Seth Barney whose telephone number is (571)272-4896. The examiner can normally be reached on 7:30am-5:00pm (Mon-Fri), first friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Scherbel can be reached on (571)272-4919. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3752

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Seth Barney  
Examiner  
Art Unit 3752

sb

SA



David A. Scherbel  
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